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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

HOWARD THOMAS AND SHIRLEY
 THOMAS,
 Plaintiffs,
 v.
 UNITED STATES OF AMERICA, et al,
 Defendants.

Case No. C 10-00001 JF

E-FILING CASE

STIPULATION AND [PROPOSED]
 ORDER TO TRANSFER CASE TO
 SOUTHERN DISTRICT OF CALIFORNIA

Whereas, this action arises under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. Sections 2671, et seq.

Whereas, actions under the FTCA may be prosecuted either where the plaintiff resides or where the act or omission occurred. 28 U.S.C. Section 1402(b); see *Del Raso v. United States*, 244 F.3d 567, 570 fn.1 (7th Cir. 2001).

Whereas, plaintiffs reside in the Southern District of California.

Whereas, the acts and omissions alleged in the Complaint occurred at the United States Penitentiary in Atwater, California, which is located in the Eastern District of California.

Whereas, venue lies in either the Southern District of California or the Eastern District of California and not in the Northern District of California, where this case is currently pending.

1 Whereas, defendant USA appears specially for the sole and limited purpose of objecting to
2 venue and entering into this stipulation.

3 Therefore, the parties stipulate, through counsel, that this action be transferred to the United
4 States District Court for the Southern District of California.

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6 Respectfully submitted,

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9 DATED: March 8, 2010

JOSEPH P. RUSSONIELLO
United States Attorney

10
11 By: _____ /S/

12 JAMES A. SCHARF
Assistant United States Attorney

13
14 DATED: March 8, 2010

MILLER & JAMES, LLP


15 By: _____ /S/

16 Patricia I. James, Attorneys for Plaintiffs

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18 Pursuant to the stipulation of the parties, and good cause appearing, it is hereby ordered
19 that this action be transferred to the United States District Court for the Southern District of
California.

20 IT IS SO ORDERED.

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23 DATED: March ¹⁰, 2010

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Hon. Jeremy Fogel D. Fogel
United States District Court Judge
Northern District of California